

TOWARDS A POST-EXIT TRANSITIONAL FRAMEWORK FOR ECOWAS-AES RELATIONS

POLICY BRIEF

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WADEMOS
West Africa Democracy Solidarity Network



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SCAN FULL REPORT

1.0 OVERVIEW

This policy brief examines the exit of Burkina Faso, Mali, and Niger from ECOWAS and the emergence of the Alliance of Sahel States (AES), highlighting the implications for regional governance, security, and institutional coordination. It proposes a transitional framework to manage post-exit relations and outlines actionable measures to preserve cooperation, strengthen oversight, and maintain pathways for potential reintegration.

2.0 BACKGROUND AND REGIONAL CONTEXT

On 29 January 2025, the year-long notice by Burkina Faso, Mali, and Niger of denunciation of the Revised ECOWAS Treaty went into effect, marking their exit from the Community. At their exit, these three states represented 54.35% of the total landmass of ECOWAS; 20% of the sovereign membership of the Community; 17.4% of the population; and 10% of its GDP. In addition to being the Community's three landlocked members, they also represent its Sahelian frontier. Their departure carries far-reaching consequences.

All three states were founding members of the Community, and their departure after 50 years marks a consequential moment for regional integration in West Africa and for ECOWAS more specifically.

3.0 EMERGENCE OF THE ECOWAS-AES DIVIDE

3.1 The Liptako-Gourma Turning Point (2023)

In reality, however, the exit was effectively realized in all but name with the adoption of the Liptako-Gourma Charter in September 2023, which established the Alliance of Sahel States as a collective security agreement among the three departing countries.

In addition to being a regional integration institution from its inception in 1975, ECOWAS had also existed since 1981 as a collective security arrangement. With the adoption of the Liptako-Gourma Charter in 2023, the coexistence of the Alliance of Sahel States (AES) as a collective security arrangement within another collective security arrangement became patently untenable.

3.2 The Niger Coup and ECOWAS Response

The cascade leading to the adoption of the collective security obligation in the Liptako-Gourma Charter, in turn, began following the military coup in the Niger Republic on 26 July 2023. Four days thereafter, the Authority of Heads of State and Government of the ECOWAS decided to recognise the ousted government of President Mohammed Bazoum and to deploy the use of force for the purpose of his reinstatement in office, if necessary. This was unprecedented.

3.3 External Institutional Response Gap

By contrast, in 2017, the original mission of the Community- to deploy force in support of the will of the Gambian people following democratic elections evolved into a mission to support the new government. This occurred after the United Nations Security Council, which holds ultimate authority over the use of force in international law, successfully backed a political and diplomatic settlement.

In the case of Niger in July and August 2023, the Authority appealed to the African Union and the United Nations for support and reinforcement, but such assistance was not forthcoming. As a result, ECOWAS suffered diplomatic isolation in the throes of which the AES was born.

4.0 LEGAL AND NORMATIVE IMPLICATIONS

The decision by ECOWAS to deploy force to restore the elected government in Niger engaged two fundamental principles of contemporary international law and relations: respect for domestic jurisdiction and the prohibition of the use of force. It is evident that, in this case, there was no claim that the situation involved the suppression of war crimes, crimes against humanity, or genocide, nor was there a decision by the Assembly of Heads of State and Government of the African Union authorizing such action. Furthermore, the circumstances of ECOWAS's decision could not be justified on the basis of self-defense as an exception to the prohibition on the use of force. This raises a legitimate question regarding the legal basis of the decision.

5.0 INSTITUTIONAL AND GOVERNANCE CHALLENGES

The circumstances of the birth of the AES raise profound questions, also of institutional coordination between the Community, other institutions in the African Governance Architecture, and the United Nations on issues concerning compliance with regional and continental norms on governance. This deserves close attention. The management of the process of exit also arguably points to a succession of missed opportunities. The casualization of the dispute resolution competence of the ECOWAS Court of Justice at any time in the sixteen months from the adoption of the Liptako-Gourma Charter in September 2023 to the exit of the three states from the Community in January 2025 is a major example.

6.0 COMPARATIVE REGIONAL LESSONS

The exit of the three member states from a regional economic community into a collective security arrangement is unprecedented in Africa. As such, there is limited precedent to guide the management of the current situation. However, there are instructive parallels with the dissolution of the East African Community in 1977.

This brief draws attention to that experience as one that offers potentially useful lessons for how ECOWAS might re-establish effective engagement with the AES states and, ultimately, reconstruct a relationship that could support their reintegration into the Community under appropriate conditions. To that end, the brief identifies a package of ten issues for consideration, as follows:

7.0 POLICY RECOMMENDATIONS

SHORT TERM (TRANSITIONAL STABILIZATION)

- 1 **Declaration of Transition Principles (DoTP):** The AES and ECOWAS should agree and announce a Declaration of Transition Principles on the basis of which the transition process will be conducted. Through the DoTP, the parties may also set up an initial timetable for the negotiations as well as mechanisms for joint monitoring.
- 2 **Identification and Inventorisation of Assets, Liabilities and Exposures:** The inventorisation of assets and liability exposures would presumably be undertaken jointly by ECOWAS, the AES States, and any other co-financiers of the project.
- 3 **Staffing Transitions and International Administrative Law:** With a case pending before the ECOWAS Court of Justice on the legality of the staffing measures so far implemented, the judgment of the court will hopefully provide guidance to the Community to govern the staffing implications of the exit. Pending that outcome, it may be prudent to stipulate and agree that

any changes to staffing policy should await the outcome of the court case and that any staff changes going forward should only arise from natural attrition.

4

Dispute Resolution/Mediation Process: A dispute resolution clause should be included in the transitional protocol between ECOWAS and the AES. The process should also be facilitated by trusted mediators on disputes concerning asset sharing and liabilities. It is hoped that disputes concerning specific projects will be governed by the dispute resolution clauses in those project agreements.

5

Joint Transition Secretariat: As an act of mutual confidence-building, it may be necessary to consider the establishment of a joint transition secretariat to be staffed by personnel jointly provided by both the AES and ECOWAS.

6

Independent Monitoring of the Transition: The processes of the transition will benefit from independent monitoring and verification from relevant bodies of both experts and civil society in both the AES and ECOWAS.

MEDIUM TERM (STRUCTURAL COOPERATION AND REFORM)

7

Regional Corridors & Public Goods: There is also a need to map the scope of transitional issues relating to areas of regional peace and security, and guaranteeing public goods, which by their nature are transboundary in their consequences and which need to be managed through collaborative arrangements between the ECOWAS and the AES. These include management of transboundary communities, the future of factor mobility and management of regional corridors, coastal transit rights, security interests, including climate consequences, public health, agriculture, and livestock, among other issues.

8

ECOWAS/AES Transitional Protocol: The institution and governance of a transitional process should be governed by protocol or Memorandum of Understanding between ECOWAS and the AES, as would the outcome of the process. The Authority of Heads of State and Government will have to authorize the Commission of ECOWAS to negotiate such a protocol on behalf of the Community.

9

Lesson Learning and Review of Niger Coup Crisis Management: It seems quite clear that the cascade of events leading to the exit of the AES States began with the coup of 26 July 2023 in Niger Republic and how the Community responded to or handled it. For ECOWAS, it will be important to undertake an internal review of the decision-making in connection with its management of the crisis of the coup of July 2023, which ultimately gave rise to the exit. Indeed, this review may extend more widely to how the Community has managed the phenomenon of unconstitutional changes of governments (UCGs) more widely.

10

Review of the Revised ECOWAS Treaty and the Protocol on Good Governance: The crisis leading to the exit of the AES States highlights the limits and constraints of the existing normative and institutional frameworks under the Revised ECOWAS Treaty. It has also revealed obvious gaps, such as the absence of any provisions governing transition after denunciation of the treaty, as well as misalignments between the treaty and other instruments thereunder, such as with the Staff Regulations. Within this framework, ECOWAS instruments and mechanisms for regional governance oversight require reform and updating.

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